IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7579 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE JAYANT PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

@

PUNA SEVA SAHAKARI MANDLI LTD.

Versus

ASST DISTRICT REGISTRAR

Appearance:

1. Special Civil Application No. 7579 of 1991

MR SHIRISH JOSHI for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1

Mr.Dabhi, AGP for Respondent No. 2,3

MR BS PATEL for Respondent No. 4

CORAM : MR.JUSTICE JAYANT PATEL

Date of decision: 01/08/2002

ORAL JUDGEMENT

Heard Mr.Joshi for the petitioner, Mr.Munshaw for the respondent No.1, Mr.Dabhi, Ld.AGP for respondent

Nos.2 & 3 and Mr.B.S.Patel for respondent No.4.

2. The present petition is arising against the orders passed by the lower authorities for the purpose of rejecting the application for amendment in the bye-laws. Learned counsel for both sides clearly submitted that the position which was prevailing 14 years back at the time when the amendment in the bye-laws was to be considered is totally changed.

3. However, in any case, adverse effect to the existing society is to be judged in view of the present position. Mr.Joshi for the petitioner submitted that in view of the fact that by passage of about 14 years, time is over liberty may be given to the petitioner to apply afresh for amendment in the by-laws which may be considered by the authority in accordance with law.

4. In view of the above, this petition is disposed of with a clarification that all the rights and contentions of the parties shall remain open and the question raised in this petition shall not stand concluded.

5. However, it is clarified that it will be open to the petitioner to apply afresh for amended by-laws as per the existing position as on today and same shall be considered by the competent authority in accordance with the existing policy and provisions as on today after giving opportunity to the affected society. Fresh proposal shall be considered independently and the authority while taking decision shall not be influenced by the observations made in the order which is the subject matter of this petition.

6. Petition is disposed of accordingly. Rule is discharged. There shall be no order as to costs.

1.8.02 (JAYANT PATEL,J)